

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Christopher M. Hanna
Title: BTSC ENCODER
Serial No.: 09/638,245
Filing Date: August 14, 2000
Examiner: Ping Lee
Group Art Unit: 2615
Docket Number: 56233-139 (THTK-3DVCN)

Mail Stop Amendment
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

DECLARATION UNDER 37 C.F.R. § 1.132
OF LESLIE B. TYLER

Sir:

I, Leslie B. Tyler, being over the age of 21, aver as follows:

1. I am and have been President and Chief Executive Officer of THAT Corporation of Milford, Massachusetts (hereinafter "THAT"), the assignee of the above-identified application, since it was founded in 1989.
2. I have a BSEE degree from Cornell University, having graduated in 1975, and have worked in the Audio Engineering Field since graduation, including employment as Vice President of Engineering for THAT's predecessor, dbx, Inc. between 1981 and 1989, before founding THAT.
3. During the years approximately 1979 through 1986, I served as dbx Inc.'s representative to the Broadcast Television Systems Committee which developed, codified, and recommended to the FCC the BTSC standard for broadcasting multi-channel sound.
4. As a member of the BTSC, and as a former employee of BTSC proponent dbx, Inc., I am very familiar with and have first-hand knowledge of the history of the BTSC system development and selection.

5. I am very familiar with and have knowledge about the history, content and pending claims of the above-identified application, and its related applications.

6. THAT Corporation began manufacturing products which incorporated the claimed subject matter of the above-identified application shortly after the earliest application was originally filed, in 1996. The impetus for developing the technology came from THAT's customers, who had been frustrated over the drift and limited performance of the analog solutions which THAT Corporation, and its predecessor, dbx, Inc., had offered up until the mid 1990s. THAT's lead customer at the time, Standard Communications, was a prominent provider of television equipment to cable TV operators, and specifically requested that we produce a higher-performance version of a previously analog-only solution.

7. After more than a year of effort, THAT produced prototypes which satisfied the customer. Understanding the potential of this ground-breaking effort, THAT filed for patent protection on the underlying technology, which includes the claimed subject matter of the above-identified application (the "Technology").

8. Over the period 1996 to 2001, THAT manufactured and sold many tens of thousands of broadcast-quality BTSC encoders using the Technology. By the year 2000, THAT had at least five different customers purchasing the products on a regular basis. In 2001, the company decided to exit the business of making physical products like these BTSC encoders, and THAT licensed its customers to make the products themselves. Since then, the company's customers have sold many more tens of thousands of units incorporating the Technology.

9. Since 1994, THAT Corporation has been involved in licensing BTSC Technology. In the late 1990s, the company was approached by a prominent IC company to license its analog and (then pending) digital patents within BTSC, including the Technology. This became the first of many. The company currently has more than 10 major licensees who use the Technology to implement millions of BTSC products each year. THAT's licensees now include such familiar names as NXP (formerly Philips Semiconductors), Analog Devices, Asahi Kasei Microsystems, and many more. Since first licensing the Technology to a third party in 1998, the number of BTSC implementations of the Technology has grown significantly. Together, at the present time the company's licensees are responsible for literally millions of BTSC implementations per month.

10. The Technology has developed significantly since its start in the middle 1990s. THAT has applied for approximately 20 United States and 76 foreign patent applications related to TV audio technology in the past ten years. THAT offers a complete suite of Verilog code which prominent IC makers license for many tens, often hundreds of thousands of dollars in start-up fees, plus a promise to pay royalties for each instance of our Technology which they manufacture and sell. These IC companies would not do so if it were easy to create this technology.

11. All this background serves, in my opinion, to substantiate the fact that the claimed subject matter of the above-identified application derived from a long-felt need, has enjoyed significant commercial success, and is a genuine invention.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: April 7, 2008

Leslie B. Tyler
Leslie B. Tyler

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